

REMARKS/ARGUMENTS

By this Amendment, claim1 is amended and claims 15-16 are added. Claims 1-16 are pending.

Support for the amendment of claim 1 can be found in the specification on page 7, lines 21-22 and page 8, lines 30-35.

Support for new claims 15-16 can be found in the specification, see for example, page 7, lines 1-7, and page 11, lines 5-13.

International Application Publication WO 00/72757 is relied upon for reference.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Claim Rejections -35USC 102

Rasor US 5, 141,738 (Rasor, thereafter)

Claims 1-7 and 10-14 stand rejected under 102(b) as anticipated by Rasor. This rejection is respectfully traversed.

To anticipate a claim, the reference must teach every element of the claim. MPEP §2131.

The Rasor reference does not identically disclose each and every element recited in the claims because it does not disclose that surface stabilized microbubbles formed without surfactant (as in base claim 1) or an echogenic surface formed without surfactant (as in base claim 10).

Rasor discloses making microparticles comprising 0.01-5 wt.% lipophilic surfactant, e.g.,

C₈-C₂₀ fatty acid, and a non-surfactant, e.g., solid saccharide; see col.7, lines 20-25, col. 9, lines 57-68, col. 10, lines 1-10 and claim 1.

Thus, Rasor requires the presence of surfactant in contradiction to base claims 1 and 10, therefore, Rasor fails to anticipate base claims 1 and 10 as well as claims dependent thereon, claims 2-7 and 11-14 and new claims 15 and 16 respectively.

Schneider US 5,271,928 (Schneider, thereafter)

Claims 1-7 and 9-14 stand rejected under 102(b) as anticipated by Schneider. This rejection is respectfully traversed.

The Schneider reference fails to anticipate base claims 1 and 10 because it does not identically disclose each and every element recited in the claims; it does not disclose that surface stabilized microbubbles formed without surfactant (as in base claim 1) or an echogenic surface formed without surfactant (as in base claim 10).

Microbubbles can also be stabilized by proteins or lipids. Schneider uses the term “surfactants” to include various lipids (see col. 6, lines 42-63). Applicants specifically exclude using surfactants. The applicants did not contemplate using lipids as surfactants which is supported by limiting the claim to a microbubble consisting essentially of (a) a microparticle having a hydrophobic surface or an affinity for a specific gas and (b) a gas microbubble such that no additional stabilizer is necessary.

Thus, Schneider requires the presence of surfactant in contradiction to base claims 1 and 10, therefore, this reference fails to anticipate base claims 1 and 10 as well as claims dependent thereon, claims 2-7, 9 and 11-14 and new claims 15 and 16 respectively.

Claim Rejections -35USC 103

Claim 8 stand rejected over Rasor or Schneider in view of Unger (US 5,542,935). Unger is relied upon for the disclosure of usefulness in imaging and drug delivery. This rejection is respectfully traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion of motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2143. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As described above both Rasor and Schneider do not disclose all limitations of base claims 1 and 10. Unger does not cure this deficiency as it is directed to gas filled liposomes.

Moreover, Rasor and Schneider are teaching away from the present invention by requiring the presence of surfactant. On page 11 of the specification, Applicants have shown that in the presence of surfactant, the effect of surface hydrophobicity is nullified, which leads to dramatic decrease in enhancement of acoustic properties. Clearly, a person skilled in the art would not be motivated to modify the Rasor and Schneider references, i.e., omit the surfactant to yield the present invention.

Thus, base claim 1 is not obvious in view of Rasor or Schneider in view of Unger.

Dependent claim 8 would not be obvious for at least the reasons claim 1 is not obvious.

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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Please charge or credit our Account No. 03-0075 as necessary to effect entry and/or ensure consideration of this submission.
